

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 29, 2004

DIVISION ONE

B163108 ECC Construction, Inc. (Certified for Publication)
 v.
 Oak Park Calabasas Homeowners Association

The motion to dismiss is denied.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

B163016 Landis, Jr. (Certified for Publication)
 v.
 Pinkertons, Inc. et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

B166308 People (Not for Publication)
 v.
 Williams

The judgment is affirmed.

Spencer, P.J.

I concur: Vogel (Miriam A.), J.
I dissent: Mallano, J. (Opinion)

DIVISION ONE (Continued)

B171572 Hufnagel (Not for Publication)
 v.
 Lehrer-Graiwer

The July 11, 2003 default judgment is reversed. The matter is remanded to the trial court with directions to vacate the default entered on February 11, 2003 and to give defendant 30 days within which to file a responsive pleading. If defendant fails to do so, plaintiff may once again seek entry of default. Defendant's appeals from the July 11, 2003 order denying his motion to quash service of summons, the September 5, 2003 order denying his motion for reconsideration, the purported September 5, 2003 order awarding sanctions, the November 7, 2003 order denying his second motion for reconsideration, which had been designated as a section 473, subdivision (d), motion, and the November 7, 2003 order awarding sanctions are dismissed. Defendant is awarded his costs on appeal.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

B169138 People (Not for Publication)
 v.
 Armstrong et al.

The finding that defendant Armstrong used a gun in the false imprisonment of Camry (Pen. Code, § 12022.5, subd. (a)(1)) is reversed. Defendants' 5-year upper term sentences for robbery are reversed and the case is remanded for resentencing on the robbery convictions in accordance with the principles expressed herein. In all other respects, the judgments are affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Mallano, J.

September 29, 2004 (Continued)

DIVISION ONE (Continued)

B170888 People (Not for Publication)
v.
Safieh

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B158420 Caranfil (Not for Publication)
v.
Hoffort, et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B169910 Ballmer et al. (Not for Publication)
v.
Franchise Tax Board, et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

DIVISION ONE (Continued)

B163386 Williams et al. (Not for Publication)
 v.
 Gerstein et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

B168032 Vielma (Not for Publication)
 v.
 Exult, Inc., et al.

The order denying the employer's petition to compel arbitration is reversed. The trial court is directed to enter a new and different order granting the petition and to stay further action in this proceeding. Respondent Exult is to recover its costs on appeal.

Spencer, P.J.

I concur: Ortega, J.
I dissent: Mallano, J. (Opinion)

B170340 People (Not for Publication)
 v.
 Echeverria

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

September 29, 2004 (Continued)

DIVISION ONE (Continued)

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The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

DIVISION TWO

B171398 Doe
v.
Blue Cross of California

Filed order granting motion to dismiss appeals. Appeals filed November 4, 2003 and December 29, 2003 are dismissed as to respondent Blue Cross of California.

DIVISION THREE

B166966 People (Not for Publication)
v.
Luis R.

The matter is remanded with directions to the juvenile court to clarify, and to correct if necessary, the maximum period of confinement; to award predisposition credits for all aggregated petitions; and to prepare an amended minute order. In all other respects, the order under review is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

September 29, 2004 (Continued)

DIVISION THREE (Continued)

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The judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

B173365 People (Not for Publication)
v.
Jackson

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B157988 Leslie A. Gould (Not for Publication)
v.
21st Century Insurance Company

The judgment is affirmed. Respondent(s) to recover costs.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

September 29, 2004 (Continued)

DIVISION THREE (Continued)

B171222 Mary E. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition is denied.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION FOUR

B165771 Calif. Fair Employment and Housing Comm. (Certified for Publication)
v.
Gemini Aluminum Corporation

The judgment is reversed and the matter is remanded to the trial court with directions to vacate the writ of mandate and enter a new order denying the petition for writ of mandate. The Department shall recover costs on appeal.

Hastings, Acting P.J.

We concur: Curry, J.
Grimes, J. (Assigned)

B171608 Slymar Air Conditioning (Certified for Publication)
v.
Pueblo Contracting Services, Inc.

The order awarding attorney fees and costs to Pueblo is affirmed. Pueblo shall recover its costs and attorneys fees on appeal.

Hastings, J.

We concur: Epstein, Acting P.J.
Grimes, J. (Assigned)

September 29, 2004 (Continued)

DIVISION FOUR (Continued)

B173337 People (Not for Publication)
v.
Sanchez

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

B174666 People v. Reed (Not for Publication)

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

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The orders denying reconsideration and denying appellant's petition for probate of the 2000 will are reversed. Appellant is to have his costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.
Grimes, J. (Assigned)

DIVISION SIX

B171265 In re Miguel C., et al., Persons Coming (Not For Publication)
 Ventura County Human Services Agency
 v.
 Amy C.

The appeal is dismissed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B177094 Luis V.
 v.
 Santa Barbara Superior Court
 (In re Anastacia F., Minor. R.P.I.)

The petition is dismissed as abandoned.

B170761 People
 v.
 Benavidez

Filed order denying petition for rehearing.

DIVISION SEVEN

B165008 Hallstrom
 v.
 Barker

Filed order denying petition for rehearing.

DIVISION SEVEN (Continued)

B168611 Los Angeles County, D.C.S. (Not for Publication)
v.
Monica M., et al.

The appeals from the July 16, 2003 and August 8, 2003 visitation orders are dismissed as moot. The December 15, 2003 order terminating parental rights is affirmed.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

B159379 People (Certified for Partial Publication)
v.
Vazquez and Fregoso

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
 Woods, J.

DIVISION EIGHT

B173810 Kreiss (Certified for Publication)
v.
Kreiss

The order refusing to enforce the discovery stipulation between Thomas and Lisa Kreiss is reversed. Appellant Thomas Kreiss to recover his costs on appeal.

Rubin, Acting P.J.

We concur: Boland, J.
 Flier, J.

September 29, 2004 (Continued)

DIVISION EIGHT (Continued)

B173682 People (Not for Publication)
v.
Nelson

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B170209 People (Not for Publication)
v.
Danny C.

Probation condition No. 15 is modified to read as follows: "Do not associate with anyone known to you to be disapproved of by your parents or Probation Officer or known modified, in pertinent part, to read as follows: "[S]tay away from places where you know users of narcotics, controlled substances, poisons, or related paraphernalia congregate." Except to the extent of this modification to the conditions of probation, the judgment is affirmed. The matter is remanded to the juvenile court for determination of the maximum commitment time and predisposition credit.

Rubin, Acting P.J.

We concur: Boland, J.
Flier, J.

B170519 LoveJoy (Not for Publication)
v.
Pingree

Judgment is affirmed. Respondent is to recover costs on appeal.

Boland, J.

We concur: Cooper, P.J.
Flier, J.

DIVISION EIGHT (Continued)

B167066 Hirano (Not for Publication)
v.
Hirano

For the reasons set forth above, the judgment is reversed. Appellant Alan Hirano to recover his costs on appeal.

Rubin, Acting P.J.

We concur: Boland, J.
Flier, J.

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For the reasons set forth above, we dismiss that portion of the appeal related to the purported sentencing error on the assault charge, leaving appellant Mortis free to ask the trial court to correct its minute order from the sentencing hearing. As to the remaining portion of the appeal, we affirm the judgment.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B170339 People (Not for Publication)
v.
Franklin

The judgment is affirmed.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.

DIVISION EIGHT (Continued)

B168828 Pamela Rack n/k/a Pamela Quest (Not for Publication)
v.
Thomas Rack

The order of June 16, 2003, denying Thomas Rack's motion to vacate the order of March 18, 2002, is affirmed. Pamela Quest is to recover her costs on appeal.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

B168514 People (Not for Publication)
v.
Luau

The concurrent terms imposed for counts two (attempted robbery) and four (criminal threats), are stayed. In all other respects, the judgment is affirmed.

Boland, J.

We concur: Cooper, P.J.
Flier, J.

B176408 Reina P. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County (DCFS), r.p.i.)

The mother's petition for writ of mandate is denied.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.